

1 ROB BONTA, State Bar No. 202668  
Attorney General of California  
2 ANYA M. BINSACCA, State Bar No. 189613  
Supervising Deputy Attorney General  
3 JAY C. RUSSELL, State Bar No. 122626  
JANE E. REILLEY, State Bar No. 314766  
4 Deputy Attorneys General  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3617  
6 Fax: (415) 703-5843  
E-mail: Jay.Russell@doj.ca.gov  
7 Jane.Reilley@doj.ca.gov  
8 *Attorneys for Sonya Christian, in her official  
capacity as Chancellor of the California Community  
Colleges*

9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
12 FRESNO DIVISION

13  
14 **DAYMON JOHNSON,**

15 Plaintiff,

16 v.

17 **STEVE WATKIN, et al.**

18 Defendants.

1:23-cv-00848-ADA-CDB

**DECLARATION OF JAY C. RUSSELL  
IN SUPPORT OF DEFENDANT SONYA  
CHRISTIAN'S OPPOSITION TO  
MOTION FOR PRELIMINARY  
INJUNCTION**

Date: September 7, 2023  
Time: 10:30 a.m.  
Dept: 200  
Judge: Magistrate Judge Christopher  
D. Baker  
Trial Date: Not Scheduled  
Action Filed: June 1, 2023

1 I, Jay C. Russell, declare:

2 1. I am an attorney admitted to practice before the courts of the State of California. I am  
3 employed by the California Attorney General's Office, and am counsel for defendant Sonya  
4 Christian, in her official capacity as Chancellor of the California Community Colleges. I am  
5 competent to testify to the matters set forth in this declaration and would do so if called upon by  
6 the court.

7 2. Attached as Exhibit A is a true and correct copy of an Agenda Item Detail from the  
8 minutes of the Kern Community College District's November 28, 2017 Special Meeting. This  
9 Agenda Item Detail is available online at <https://go.boarddocs.com/ca/kccd/Board.nsf/Public>.

10 3. Attached as Exhibit B is a true and correct copy of the First Reading of Chapter 3 of  
11 the District's Proposed Board Policies, which included Board Policy 3050, referred to in the  
12 District's November 28, 2017 Special Meeting. This proposed chapter of District Board Policies  
13 is available online at chrome-  
14 extension://efaidnbmnnnibpcajpcglclefindmkaj/[https://go.boarddocs.com/ca/kccd/Board.nsf/files/](https://go.boarddocs.com/ca/kccd/Board.nsf/files/AS8W2U835CFF/$file/Ch%203%20-%20First%20Reading.pdf)  
15 [AS8W2U835CFF/\\$file/Ch%203%20-%20First%20Reading.pdf](https://go.boarddocs.com/ca/kccd/Board.nsf/files/AS8W2U835CFF/$file/Ch%203%20-%20First%20Reading.pdf).

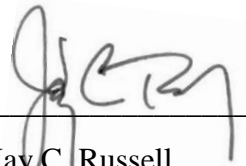
16 4. Attached as Exhibit C is a true and correct copy of an Agenda Item Detail from the  
17 minutes of the Kern Community College District's January 20, 2022 Retreat Meeting. This  
18 Agenda Item Detail is available online at <https://go.boarddocs.com/ca/kccd/Board.nsf/Public>.

19 5. Attached as Exhibit D is a true and correct copy of the Second Reading of Chapter 3  
20 of the District's Proposed Board Policies, which included Board Policy 3050, referred to in the  
21 District's January 2-0, 2022 Retreat Meeting. This proposed chapter of District Board Policies is  
22 available online at chrome-  
23 extension://efaidnbmnnnibpcajpcglclefindmkaj/[https://go.boarddocs.com/ca/kccd/Board.nsf/files/](https://go.boarddocs.com/ca/kccd/Board.nsf/files/CA44RJ0CD0F4/$file/Second%20Read-Chp%203%20BP's%20Only.pdf)  
24 [CA44RJ0CD0F4/\\$file/Second%20Read-Chp%203%20BP's%20Only.pdf](https://go.boarddocs.com/ca/kccd/Board.nsf/files/CA44RJ0CD0F4/$file/Second%20Read-Chp%203%20BP's%20Only.pdf).

25 6. Attached is a true and correct copy of the current version of District's Board Policies.  
26 This chapter of the District Board Policy is available online at chrome-  
27 extension://efaidnbmnnnibpcajpcglclefindmkaj/[https://www.kccd.edu/\\_resources/assets/documen](https://www.kccd.edu/_resources/assets/documents/board-of-trustees/board-policy/chapter-3/BP3050.pdf)  
28 [ts/board-of-trustees/board-policy/chapter-3/BP3050.pdf](https://www.kccd.edu/_resources/assets/documents/board-of-trustees/board-policy/chapter-3/BP3050.pdf).

1 I declare under penalty of perjury of the laws of the State of California that the foregoing is  
2 true and correct. Signed on August 18, 2023 in San Francisco, California.

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Jay C. Russell

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# **EXHIBIT A**



### Agenda Item Details

Meeting	Nov 28, 2017 - Special Board of Trustees Meeting ****TO BE HELD AT BAKERSFIELD MARRIOTT****
Category	2. Work Study Sessions
Subject	A. First Reading: Presentation of proposed revision to the Kern Community College District Board Policy Manual, as recommended by the Chancellor. The policies have been vetted through the Chancellor's Cabinet and Chancellor's Consultation Council.
Type	Discussion, Information, First Reading

Beginning in Fall 2015, the Kern Community College District embarked on a major project to update its board policies and administrative procedures and align them with changes in laws, regulations and accreditation standards. These policies were created to amend and align District policy. These proposed policies were vetted through the Chancellor's Cabinet and the District Consultation Council and will be presented to the Board of Trustees for review and discussion.

[Ch 1 - First Reading.pdf \(83 KB\)](#)

[Ch 2 First Reading.pdf \(400 KB\)](#)

[Ch 3 - First Reading.pdf \(240 KB\)](#)

[Ch 4 - First Reading.pdf \(195 KB\)](#)

[Ch 5 - First Reading.pdf \(234 KB\)](#)

[Ch 6 - First Reading.pdf \(269 KB\)](#)

[Ch 7 - First Reading.pdf \(224 KB\)](#)

# **EXHIBIT B**



**BP 3050**

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**Kern Community College District  
Board Policy  
Chapter 3 – General Institution**

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**BP 3050 INSTITUTIONAL CODE OF ETHICS**

**Reference:**  
**WASC/ACCJC Accreditation Standard III.A.13**

The Kern Community College District recognizes that a commitment to the highest ethical and professional standards on the part of all persons associated with the District is necessary to fulfilling our mission and realizing our vision, which are policies of the District. This code of ethics is based on two fundamental principles.

The first is recognition of the dignity of all persons, which respects the inherent value and worth of each person. The second principle is a commitment to fulfilling our obligations to others using fair and honest means.

All associates in the District, faculty, students, management, classified staff, and trustees, as well as volunteers and vendors, each bear personal responsibility for their own ethical behavior and for the ethical stature of our organization. We are committed to fulfilling the District's mission. While we recognize the relationship between law and ethics, we further understand that legal requirements are necessary but not sufficient, and we endeavor always to do what is right and just, even when no one is watching, compelling, or evaluating our actions.

**Respect for Persons and Academic Freedom**  
**(Also see BP 4030 titled Academic Freedom)**

The inherent dignity of all persons requires that we conduct ourselves with civility in all circumstances of our professional lives. This means that we do not participate in or accept, condone, or tolerate physical or verbal forms of aggression, threat, harassment, ridicule, or intimidation. The District is an institution of higher education and especially values a spirit of free inquiry and free speech. The District encourages the expression of a range of points of view, but we expect all expressions of content to be conducted in a manner respectful of persons. The District nurtures an atmosphere of mutual respect by treating everyone with dignity, even when the values, beliefs, or behavior of a person or group is different from our own. The District recognizes this foundation of mutual respect to be the basis of civil discourse in an academic environment.

The District further protects the dignity of persons by maintaining the boundaries of both necessary and appropriate confidentiality, and by prohibiting the exploitation of all persons through sexual harassment or financial, professional, or any other form of exploitation. The District seeks to develop policies, procedures, and practices which are both compassionate and fair. In order to assure that we are fair in our policies, procedures, and practices regarding the dignity and worth of persons, the District specifically prohibits discrimination **as codified in BP/AP 3410 titled Nondiscrimination**. While this prohibition is necessary, it is the genuine valuing of diversity that serves to create the general atmosphere in which persons can thrive and realize their potential.

### **Fairness and Honesty**

The District desires to participate in a healthy work environment which emphasizes the achievement of our common purpose and the development of our potential as individuals and as an organization.

The District will actively work to build the trust necessary to conduct its mission through open, honest, and fair practices and communication at all levels.

The District values and practices the sharing of information, transparency of policy, and consistency of practice in all its dealings.

The District does not tolerate or condone dishonest practices, such as lying, stealing, plagiarizing, cheating, or deliberate misrepresentation of self, program, or information.

The District does not tolerate the misappropriation of resources of any kind, either through misuse of property, time, equipment, or systems, or through inaccurate reporting which results in personal or group gain.

The District develops and uses systems for the prohibition of bias, and for the reporting of conflict of interest, including conflicts resulting from work relationships in which employees have more than one role in relation to another person, resulting in social pressures on professional conduct.

In those circumstances where such conflicts cannot be avoided and/or are considered minor in scope, we will commit to open and transparent consultation with supervisors and colleagues in order to protect individual rights, professional reputations, and the ethical reputation of our institution.

The District will engage in self-monitoring and open information sharing to assure fairness in the distribution of resources necessary to support its mission.

### **Competence**

The District recognizes the importance of competence to the effectiveness and trustworthiness of its endeavors. The District maintains currency in all areas of responsibility and seeks and uses feedback for improved performance, while also



recognizing and celebrating performance achievements. The District is aware of and will behave in accordance with the policies and practices of its various professional associations and share these practices with students and colleagues.

The District will further acknowledge and seek intervention related to impediments to competent performance, including but not limited to continuing education needs, drug and alcohol abuse, and physical or mental impediments to competent performance of our duties. The District will use appropriate systems to support rehabilitation and/or accommodation.

## **Conclusion**

The District celebrates its existence as a unique institution for the realization of human potential in the geographic area it serves and through the global connections fostered by its online programs.

The District prizes most highly the education and achievements of students, and the fostering of lifelong learning throughout its organization.

The District allows this value not only to direct our positive behavior and limit our potentially negative behavior, but to inspire us with a sense of shared purpose and a willingness to cooperate with one another in developing the highest potential in individuals and communities.

## **The Binding Nature of Ethical Standards of Kern Community College District**

This statement of ethics articulates mutual expectations related to the employment or participation in providing services in the District, including service on the Board of Trustees and community advisory boards, and as volunteers and contracted service providers.

(Also see BP 2715 titled Code of Ethics/Standards of Practice).

## **Definitions**

**Bias** – a partiality that prevents objective consideration; influence in an unfair way

**Civil Discourse** – engagement in courteous and polite conversation intended to enhance understanding; a moral interaction that presupposes ethical standards.

**Civility** – courtesy; politeness.

**Competence** – the act of performing tasks and roles to an expected standard based on the possession of required skills, knowledge, qualifications, or capacity.

**Dignity** – bearing, conduct, or speech indicative of self-respect or appreciation of the formality or gravity of an occasion or situation; the quality or state of being worthy of

esteem or respect.

**District** – the Kern Community College District (referred to as “we” or “our”) is a political subdivision of the State of California and includes all Colleges, Centers, satellites, online, and all sites and persons governed by the Kern Community College District Board of Trustees.

**Ethical Standard** – the principles and norms of proper professional and moral conduct concerning the rights and duties of professionals themselves and their conduct toward others.

**Ethical Stature** – The reputation for achieving and maintaining the highest level of professional and moral conduct.

**Ethics** – a system of moral principles; moral principles, as of an individual; a set of principles of right conduct.

**Exploitation** – the act of using another for personal gain; the practice of treating someone badly

**Inherent** – existing in someone or something as a permanent and inseparable element, quality, or attribute; existing as an essential constituent or characteristics; intrinsic.

**Just** – guided by truth, reason, justice, and fairness; done or made according to principle; equitable; property.

**Reputation** – the estimation in which a person or thing is held by others; the state or situation of being held in high esteem.

**Right** – in accordance with what is good or proper; in conformity with fact, reason, truth, or some standard or principle; correct in judgment, opinion, or action.

# **EXHIBIT C**



### Agenda Item Details

Meeting	Jan 20, 2022 - Board of Trustees Retreat Meeting
Category	7. Preliminary Items
Subject	D. Second Reading: Adoption of proposed amendment to the Kern Community College District Board Policy Manual, Chapter Three, General Institution, Board Policies only.
Type	Action
Recommended Action	Recommended for approval

As part of a regular review and update the Kern Community College District continues to update its board policies and administrative procedures and align them with changes in laws, regulations, and accreditation standards. These policies were created to amend and align District policy. The proposed policies related to Chapter 3 were reviewed by Chancellor's Cabinet and the District Consultation Council.

Chapter 3 was presented to the Board for First Reading at the meeting of December 16, 2021, and is now presented for adoption.

[Second Read-Chp 3 BP's Only.pdf \(284 KB\)](#)

### Motion & Voting

Recommended for approval

Motion by John S Corkins, second by Yovani Jimenez.

Final Resolution: Motion Carries

Ayes: Romeo Agbalog, Kyle W Carter, Jack P Connell, John S Corkins, Nan Gomez-Heitzeberg, Kay S Meek, Yovani Jimenez

# **EXHIBIT D**

# **Second Reading**

## **Chapter Three**

# **General Institution**

## **Chapter Three Table of Contents**

### **POLICY**

<b>3050</b>	Institutional Code of Ethics .....
<b>3100</b>	Organizational Structure .....
<b>3200</b>	Accreditation .....
<b>3225</b>	Institutional Effectiveness .....
<b>3250</b>	Institutional Planning .....
<b>3280</b>	Grants .....
<b>3300</b>	Public Records .....
<b>3310</b>	Records Retention and Destruction .....
<b>3410</b>	Nondiscrimination .....
<b>3420</b>	Equal Employment Opportunity .....
<b>3430</b>	Prohibition of Harassment .....
<b>3449</b>	Students and Staff with Disabilities .....
<b>3440</b>	Service Animals .....
<b>3500</b>	Campus Safety .....
<b>3501</b>	Campus Security and Access .....
<b>3505</b>	Emergency Planning, Preparedness, and Response Plan .....
<b>3510</b>	Workplace Violence .....
<b>3515</b>	Reporting of Crimes .....
<b>3520</b>	Local Law Enforcement .....
<b>3530</b>	Weapons on District Property .....
<b>3540</b>	Sexual and Other Assaults on Campus .....
<b>3550</b>	Drug-Free Environment and Drug Prevention Program .....
<b>3560</b>	Alcoholic Beverages .....
<b>3570</b>	Smoking on Campus .....
<b>3600</b>	Auxiliary Organizations .....
<b>3710</b>	Securing of Copyright .....
<b>3715</b>	Intellectual Property .....

<b>3720</b>	Computing and Network Use.....
<b>3725</b>	Information and Communications Technology Accessibility and .. Acceptable Use
<b>3810</b>	Claims Against the District .....
<b>3820</b>	Gifts .....
<b>3900</b>	Speech, Time, Place, and Manner .....
<b>3910</b>	Publications.....



## **Chapter Three Table of Contents**

### **Employ the Process of Mutual Agreement**

Policies:

Procedures:

### **Rely Primarily Upon the Advice and Judgment**

Policies:

Procedures:

### **Accreditation Related**

#### **Policies:**

3050 Institutional Code of Ethics  
3200 Accreditation  
3225 Institutional Effectiveness  
3250 Institutional Planning  
3410 Non-Discrimination  
3420 Equal Opportunity Employment  
3501 Campus Security and Access

#### **Procedures:**

3050 Institutional Code of Ethics  
3200 Accreditation  
3225 Institutional Effectiveness  
3250 Institutional Planning  
3410 Non-Discrimination  
3420 Equal Opportunity Employment  
3501 Campus Security and Access

# Policy



**BP 3050**

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**Kern Community College District  
Board Policy  
Chapter 3 – General Institution**

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**BP 3050 Institutional Code of Ethics**

**Reference:**

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# **EXHIBIT E**



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**Kern Community College District  
Board Policy  
Chapter 3 – General Institution**

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**BP 3050 Institutional Code of Ethics**

**Reference:**

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